

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 218.4, the Department of Human Services amends Chapter 28, “Policies for All Institutions,” rescinds Chapter 29, “Mental Health Institutes,” and Chapter 30, “State Resource Centers,” Iowa Administrative Code, and adopts new Chapters 29 and 30 with the same titles.

These amendments update and reorganize rules relating to state mental health institutes and resource centers. Most of the changes are technical changes to reflect the current Department management structure for the facilities. The amendments create a uniform term for the persons being served, update form numbers, and remove obsolete forms and procedures to reflect current practice. Rules specific to one type of facility have been moved from Chapter 28 to Chapter 29 or 30, as applicable.

An individual’s right to file a grievance is clarified and established by rule. Clarification has been made as to which persons, besides the individual being served, have the right to make decisions of behalf of the individual. The lists of rights for individuals with mental illness or mental retardation have been updated to reflect current language and practice.

The voluntary application process for admissions to state mental health institutes is revised to reflect the change in Iowa Code section 331.440(3) requiring all applications for admission to go through the individual’s county of residence central point of coordination process. As required by Iowa Code section 229.42, applications are required to have an authorized county signature before the mental health institute can accept the application. Counties will have broad discretion in determining which person or persons may provide the authorization.

These amendments do not provide for waivers in specified situations except for waivers to the established catchment areas for the facilities. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217). However, Iowa law places authority and responsibility with county government to accept, process, and approve applications. The rights of individuals served to confidentiality and privacy are also defined by law. The Department has no authority to waive those requirements. Individuals are given the right to make their own decisions about maintaining confidentiality and privacy.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 22, 2009, as **ARC 7717B**. The Department received comments on the Notice of Intended Action from two people. As a result of these comments, the Department has made the following changes to the amendments as published under Notice of Intended Action:

- Added a definition of “County of residence” to rule 441—28.1(218), which reads as follows: “ ‘County of residence’ means the same as defined in rule 441–25.11(331).” This change is made to conform to the definition adopted by the Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission in a rule making that was published in the Iowa Administrative Bulletin on May 20, 2009, as **ARC 7668B**.

- Removed subrules 29.7(3) and 30.6(2) and renumbered the subrules in each rule accordingly. These subrules required approval of visitors by the attending physician (at a mental health institute) or social worker (at a resource center). These provisions conflict with the rules concerning self-determination.

The Department is not removing the term “admitting county” as suggested by comments, because there are times when an individual is admitted from a county that is neither the individual’s county of residence nor the individual’s county of legal settlement.

The Council on Human Services adopted these amendments on August 12, 2009.

These amendments are intended to implement Iowa Code chapters 217, 218, 222, 225C, 228, 229, and 230.

These amendments will become effective November 1, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amend Ch 28; adopt Chs 29, 30] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 7717B**, IAB 4/22/09.

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[For replacement pages for IAC, see IAC Supplement 9/9/09.]